

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

WILLIAM PAUL ALEXANDER,
Petitioner,

No. 1:21-cv-0599 MV/DLM

FNU LNU, Warden, C.N.M.C.F., and
Attorney General for the State of New Mexico,
Respondents.

**ORDER ADOPTING PROPOSED FINDINGS
AND RECOMMENDED DISPOSITION**

THIS MATTER is before the Court on United States Magistrate Judge Damian L. Martínez's Proposed Findings and Recommended Disposition (PFRD) filed February 20, 2024. (Doc. 41.) Judge Martínez found that Alexander filed a mixed petition containing both exhausted and unexhausted claims and recommended that the Court give Alexander 30 days to file a notice that indicates whether he wants to attempt to exhaust his state habeas claims or to voluntarily dismiss all unexhausted claims. (*See id.* at 1.) The PFRD notified the parties of their ability to file objections no later than 14 days after the PFRD was filed. (*Id.* at 12–13.) As no party filed objections within the time allowed, the Court concludes that appellate review has been waived.

IT IS THEREFORE ORDERED that Alexander has 90 days from the entry of this Order to file a notice with the Court that indicates his choice from the following two options:


1. Attempt to exhaust state habeas claims: As outlined in the Court's December 15, 2023 and January 2, 2024 Orders, Alexander may attempt to exhaust the claims in his state habeas petition. If Alexander chooses to pursue exhaustion, within 90 days of entry of this Order, he shall file with the New Mexico Supreme Court a motion to extend time to file a petition for writ of certiorari pursuant to Rule 12-501(C)(3). In that same time, he shall also file a notice in this Court indicating his choice, together with a copy of the motion to extend time that he filed with the New Mexico Supreme Court.
2. Voluntary dismissal of all unexhausted claims: If Alexander does not wish to attempt to exhaust the claims in his state habeas petition, within 90 days of entry of this Order, he

shall file in this Court a notice indicating his intent to voluntarily dismiss the claims brought in Grounds 4–5, 7–10, the portion of Ground 3 related to double jeopardy, and the portion of Ground 6 related to the conspiracy to commit murder charge.

IT IS FURTHER ORDERED that if Alexander fails to file a notice within the 90-day deadline that clearly indicates one of the two choices above, the Court will dismiss the entire mixed Petition without prejudice.

IT IS FURTHER ORDERED that the Court denies without prejudice the Motion for New Trial or Evidentiary Hearing. (Doc. 33.)

IT IS SO ORDERED.



MARTHA YAZQUEZ
SENIOR UNITED STATES DISTRICT JUDGE